

**REVIEW OF CONTROLS
OVER SELECTED PUBLIC BENEFIT
FEATURES
IN DOWNTOWN SEATTLE**

NOVEMBER 7, 2000

Office of City Auditor

REVIEW OF CONTROLS OVER SELECTED PUBLIC BENEFIT FEATURES IN DOWNTOWN SEATTLE

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Project Manager: Jerry Stein

City Auditor: Susan Cohen
Deputy City Auditor: David G. Jones

Auditors: Susan Baugh
Yanira Cuellar
Eileen Norton
Linneth Riley-Hall
Wendy Soo Hoo
Megumi Sumitani
Scottie Veinot-Nix

Administrative Specialist: Carolyn Yund
Administrative Staff Assistant: Thyra Brooks

City of Seattle

700 Fifth Avenue, Suite 4090
Seattle, Washington 98104-5030

Printed on Recycled Paper



City of Seattle

Office of City Auditor
Susan Cohen, City Auditor

November 7, 2000

The Honorable Paul Schell
Seattle City Councilmembers
City of Seattle
Seattle, WA 98104-1876

Dear Mayor Schell and City Councilmembers:

Attached is a report from the Office of City Auditor, Review of Controls Over Selected Public Benefit Features in Downtown Seattle. We prepared this report to determine whether Seattle's citizens can be assured that public spaces and certain other amenities promised by developers in exchange for "bonus" floor area in downtown buildings are actually built and maintained as promised.

We concluded that none of the public spaces or amenities associated with existing downtown buildings have been permanently removed from public use, except in accordance with the Land Use Code. We concluded that good design is the best guarantee that public amenities will be used by the public, and recommended that the City continue to review the design of public amenities in its Land Use and Design Review processes. We also recommended that the Department of Design, Construction and Land Use (DCLU) improve its ability to keep track of public benefit features with its Geographic Information System (GIS) and other computer records. DCLU generally concurred with our findings and conclusions. DCLU's written response is included in the report as Appendix D.

We appreciate the cooperation and assistance we received from DCLU personnel, as well as from representatives of the Office of Housing, Strategic Planning Office, and Central Staff of the Legislative Department. We hope this report will complement the work of the interdepartmental team (led by the Office of Housing) and citizen advisory board that are currently evaluating the City's floor area bonus programs.

If you have any questions regarding this report, please contact me at 233-1093 or Jerry Stein at 233-1091.

Sincerely,

Susan Cohen
City Auditor

Attachment



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INTRODUCTION

Purpose

The City Auditor initiated this review to determine whether Seattle citizens can be assured that public spaces and certain other amenities promised by developers in exchange for “bonus” floor area in downtown buildings are actually built and maintained as promised.

Authority

The Office of City Auditor was established by a 1991 amendment of the City’s charter, replacing the elected Office of City Comptroller.¹ The City Auditor is appointed to a six year term by the Chair of the City Council Finance Committee, subject to confirmation by a majority of the Council, and may be removed from office only *for cause* by a majority vote of the Council. (This arrangement ensures the Auditor’s institutional independence from the Mayor and Council.) The current City Auditor started her term in June of 1998.

The Office’s mission is to help to achieve honest, efficient management and full accountability throughout City government. To this end, the Office provides the City Council, the Mayor, City managers, and citizens with accurate information, unbiased analyses, and objective recommendations on how best to use public resources in support of the well-being of the citizens of Seattle.

Most of the Office’s work is performed in accordance with the Government Auditing Standards issued by the Comptroller General of the United States. The Standards provide guidelines for staff training, audit planning and fieldwork, and reporting of results.

Background

The City of Seattle regulates land use primarily through Title 23 of the Seattle Municipal Code (SMC), also known as the Land Use Code. Like the rest of the SMC, the Land Use Code is established by the City Council and Mayor. The Department of Design, Construction and Land Use (DCLU) administers the Land Use Code and issues administrative and explanatory regulations.

Building density and Floor Area Ratio

The Land Use Code limits the density of downtown buildings in several ways, including height limits, setback standards (distance from the street), and “floor area ratio” (FAR) limits.

FAR is the ratio of a building’s gross floor surface area to the area of the lot on which the building is located. For example, a building with 200,000 square feet of useful floor area on a building site of 20,000 square feet has a FAR of 10-to-1, or 10. (200,000 divided by 20,000.)² (Note that a building site area equals 1 FAR, by definition. Thus, a project on a 20,000 square foot site that is allowed to increase its density by 2 FAR would be allowed to add 40,000 square feet.)

² The City of Seattle Strategic Planning Office (SPO) has issued a four-page document explaining FAR, entitled, *Stalking the Elusive FAR: A Guide to Downtown Building Densities*. The document uses diagrams of actual downtown buildings to explain the concepts of building density and FAR, and includes a list of data for 43 downtown buildings.

¹ Charter of the City of Seattle, Article VIII, Section 2.

Downtown zoning and bonus programs

There are 11 downtown zones. (A zone map is included at Appendix A.) All the zones have height limits and/or specific base and maximum density (FAR) amounts. Base FAR is the highest ratio that a building can have without participating in a bonus program.

Seattle allows developers to add “bonus” density beyond the base FAR in seven of the downtown zones:

- Downtown Office Core 1 (*DOC1*)
- Downtown Office Core 2 (*DOC2*)
- Downtown Retail Core (*DRC*)
- Downtown Mixed Commercial (*DMC*)
- Downtown Mixed Residential (*DMR*)
- International District Residential (*IDR*)
- Downtown Harborfront 2 (*DH2*)

One way developers can earn bonus density is by including selected public amenities in a building’s design and construction. These on-site amenities, known as public benefit features (PBFs), include such things as public shopping plazas, rooftop gardens, and public escalators. (Other PBFs are listed in Appendices B and C.)³

Base maximum density, bonus maximum density, and bonus requirements are different for each zone. In the five zones that comprise the center of downtown Seattle—DOC1, DOC2, DRC, DMC, and DMR—there are 2-4 “tiers” of allowable FAR bonus amounts; some bonuses are available in only one tier, others are available in all tiers.

In *DOC1*, for example, the base maximum density—that which is available without participating in a bonus program—is 5 FAR. A developer can earn up to 2 more FAR—the first tier—by participating in certain

³ Bonus density can also be earned by constructing or contributing funds toward affordable housing projects on- or off-site, or by purchasing “unused” development rights from other buildings. These unused development rights are known as Transferable Development Rights (TDRs). In this review we focused on non-housing, on-site PBFs.

Transferable Development Rights (TDR) programs or by providing certain PBFs. If the developer earns the 2 FAR bonus in this tier, it can earn up to 7 more FAR—the second tier—by using the Housing Bonus or participating in certain TDR programs, but not by providing architectural PBFs.

PBF valuation

PBF values (the amount of additional commercial floor area permitted in exchange for PBFs) are established in the Land Use Code for each zone. Amenities that are relatively inexpensive to implement, like sidewalk widening and overhead weather protection, generally earn less FAR bonus than more costly amenities.

History of downtown bonus programs

Seattle’s first bonus incentive program was established in 1966 in the Zoning Code, SMC Title 24.⁴ Developers could earn the right to build additional floor area in buildings in two downtown zones by building public plazas or arcades on the property, or by designing voluntary building setbacks.

Shopping plazas and shopping arcades became bonusable features in 1976. (See Appendix C for definitions of these and selected other Title 24 bonusable features.) According to the Land Use Code, 19 downtown buildings used PBFs to earn additional floor area under Title 24.

In accord with its new Downtown Plan, in 1985 the City further expanded the range of bonusable items to include such features as hillclimb assists (e.g., escalators), sculptured building tops, and weather protection over adjacent sidewalks. It also expanded the availability of bonus programs to the seven downtown zones listed previously. On the other hand, it reduced the amount of additional floor area that could be earned by

⁴ Title 24 was repealed in 1995; most of its PBF provisions were replaced in 1985. Downtown zoning and bonus programs are now described in Title 23 and in Director’s Rule 20-93.

each PBF. The City also introduced the Housing Bonus and TDR programs at this time.

Seattle's tallest building, the Bank of America Tower, 701 Fifth Avenue (formerly the Columbia Tower), was built before the 1985 Downtown Plan reduced the maximum FAR and the bonus value of PBFs. The builder was able to add 18 FAR to the base FAR of 10 because its retail arcades were bonused at a ratio of 14-to-1. (Ratios now are 5-to-1 for an urban plaza and 6-to-1 or 8-to-1 for a shopping atrium, depending on zoning.)

In 1989 the citizens of Seattle approved the Citizens' Alternative Plan (CAP) Initiative, which reduced the maximum density that could be earned by PBF bonuses in the downtown zones. For example, it reduced the bonus available in the first tier in *DOC1* and *DOC2* from 5 FAR to 2. Since this is the only tier in which non-housing PBFs earn bonuses in those zones, the CAP reduced developers' incentive to include non-housing PBFs in their buildings.

The Washington Mutual Tower, 1201 Third Avenue, was designed and built after the expansion of PBFs in the 1985 Downtown Plan, but before the 1989 CAP reduced the total FAR that could be earned with PBFs. The Tower earned about 295,000 additional square feet (5 FAR, the maximum then available in *DOC1*) by providing the following PBFs:

- Child care (YMCA, Second Avenue level);
- Hillclimb assists (escalators accessible from University Street);
- Hillside terrace;
- Public atrium (2nd floor, overlooks Second Avenue and garden/terrace);
- Retail shopping (Second and Third Avenue levels);
- Rooftop garden – street accessible (from Seneca Street);
- Sculptured building top;
- Transit station access easement (Metro bus tunnel located beneath the building); and
- Urban plaza (Second Avenue side).

The Tower earned another 260,000 square feet by participating in the Housing Bonus and/or TDR Programs.

The zoning framework has been altered several times since the CAP was adopted. Housing affordability targets have been adjusted and bonuses have been added for preserving landmarks and for preserving or developing performing arts facilities.

TDR/Bonus Program policy review

The Office of Housing (OH) is currently leading an interdepartmental team that is working with a consultant to evaluate downtown zoning policies and bonus programs. The purpose of the evaluation is to determine which programs and features are being used by developers to earn FAR, and to determine whether policy goals—especially those regarding affordable housing—are being served by the current programs. The Law Department, DCLU, Strategic Planning Office (SPO), and Legislative Department Central Staff are represented on this team.

A citizens' panel—the TDR/Bonus Program Review Advisory Committee—was formed in January 2000 to complement the City's team in reviewing and updating the TDR and Bonus Programs. The panel issued its recommendations in a May 31, 2000, report. Regarding use of PBFs, the Committee concluded that:

Due to the way the tiering system is currently structured, a limited range of public benefit features is being produced through the Bonus Program despite the long lists of bonusable items available to developers.⁵

The City interdepartmental team's examination of six recent downtown commercial building projects appears to confirm the citizens' committee's conclusion

⁵ TDR/Bonus Program Review Advisory Committee, City of Seattle TDR/Bonus Program Review: Advisory Committee Recommendations, May 31, 2000.

that most non-housing PBFs are no longer attractive to developers. None of these projects used open space PBFs to earn additional floor area. Developers typically earn most or all of the 2 FAR available by providing the two PBFs that are required by the Land Use Code in those zones: ground-floor retail shopping and sidewalk widening. Overhead weather protection is also used frequently.

The Advisory Committee recommended that the City change the TDR and Bonus Programs to focus on housing, simplify the FAR tier system, and eliminate many of the PBFs now available. Human services, child care, open space, hillclimb assist, transit access, and building setbacks on “green streets” are among the PBFs the Committee recommended preserving.

Maintenance and modification of PBFs

The Land Use Code requires that all non-housing on-site PBFs be maintained for the life of the structure with the bonus floor area unless:

- the additional (bonus) floor area is removed;
- the PBF is replaced by another approved PBF of at least equivalent floor area value; or
- the owner of the structure buys out the equivalent floor area value of the PBF in accordance with the PBF Rule.⁶

In the case of human services uses, child care centers, and similar PBFs (those that involve services rather than physical facilities alone), if the occupant (service provider) leaves, the owner of the building must notify the Director of DCLU and replace the use with another conforming use within six months. If the space is vacant between uses, the building owner must make it available to nonprofit community and charitable organizations for events, free of charge.⁷

⁶ SMC § 23.49.035.A.

⁷ SMC § 23.49.035.C.

A separate Land Use Code section allows building owners to modify certain Title 24 PBFs.⁸ Plazas, shopping plazas, arcades, shopping arcades, and voluntary building setbacks, which were used to earn bonuses before 1985, can be modified with DCLU approval. The Land Use Code includes a map that shows the 19 buildings constructed with Title 24 PBFs that are eligible for modification. (See Appendix A.) Several of these PBFs have been modified in accord with this Code section.

Objectives, Scope, and Methods

Objectives

The objectives of this review were:

1. To determine whether Public Benefit Features (PBFs), promised by developers in exchange for floor area ratio (FAR) bonuses for downtown buildings, have been provided and maintained as required by the City’s Land Use Code (SMC Title 23).
2. To determine whether the City has adequate controls or monitoring systems in place to ensure that PBFs are provided and maintained as required by the City’s Land Use Code, and to recommend improvements to the control structure as needed.

Scope

This review encompassed PBFs built since Seattle’s floor area bonus programs began, in 1966. It only included PBFs constructed on the sites of the bonused buildings. It did not include TDRs, short-term parking, or bonused affordable housing constructed on- or off-site.

⁸ SMC § 23.49.034.

Methods

In the course of this project we:

- Interviewed personnel from DCLU, OH, SPO, and Legislative Department Central Staff;
- Researched the Land Use Code and DCLU Director's Rules regarding PBFs; and
- Inspected downtown buildings built with PBF bonuses to verify that the PBFs were present. (A veteran member of DCLU Land Use staff led the auditor on a walking tour of 11 of the 19 existing downtown buildings with pre-1989 PBFs.)

This audit was conducted in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

Summary of Findings and Recommendations

There is no formal monitoring or enforcement program for PBFs; however, the City does not appear to have “lost” any significant PBFs. There is no dedicated enforcement staff for any land use conditions, except for shorelines. PBF and other land use condition enforcement is generated almost entirely by complaints. Nonetheless, based on research and interviews of DCLU staff, we concluded that none of the public spaces or amenities associated with these projects have been permanently removed from public use, except in accordance with the Land Use Code.

Because the City began using PBF bonus programs less than 35 years ago, key DCLU personnel have been personally acquainted with most of the projects that used PBF bonuses. Several staff members have informally monitored downtown PBFs for years. In recent years, many who worked on the earliest projects have retired from the City. ***Although we do not believe the City can continue to rely on these informal control methods, we do not believe that a monitoring program is needed for PBFs.***

Good design—i.e., design that encourages public use—is the best way to protect PBFs from “privatization”. Before 1981, the City would approve a PBF as long as the technical requirements of the Land Use Code (regarding seating, ramps, etc.) were met. Some of those PBFs function well as public spaces, but some are difficult for passersby to see or to identify as public spaces. A well-used public space is not likely to be eliminated or usurped by the building owner. Today, downtown PBFs are subject to the qualitative requirements of a DCLU Director’s Rule, and building designs generally are subject to review by a citizen panel, the Design Review Board. ***The City should continue to evaluate PBF design in the Land Use and Design Review processes.***

DCLU regulations require developers to identify each bonused public space with “the City’s public open space logo” and the hours it is open; however, the City does not have such a logo. Furthermore, most of the downtown buildings with PBF open spaces were built before this regulation was enacted. Since PBF enforcement is primarily complaint-based, posting signs of this nature would help to protect PBF open spaces. ***DCLU should coordinate the development of a unique public open space logo, and the City should ask building owners to post it at PBF open spaces that were built before the sign rule was enacted.***

DCLU does not have the means to ensure that it does not approve permits for changes that could compromise existing PBFs. Since major modifications to PBFs would typically require one or more DCLU permits, DCLU’s Permit application review process can provide some protection for PBFs. But the City does not have a comprehensive computer database or GIS map of downtown PBFs.⁹ ***DCLU should consider ways to improve its tracking of PBFs, including the possibility of creating a GIS map of PBFs.***

⁹ A GIS (Geographic Information System) is a computer system capable of assembling, storing, manipulating, and displaying geographically referenced information. It begins with a base map, to which layers of geographically referenced information—water and sewer line locations, types of vegetation, land use information, etc.—can be added.

There is no formal monitoring or enforcement program for PBFs; however, the City does not appear to have “lost” any significant PBFs.

There is no formal post-construction monitoring of PBFs. Nonetheless, based on research and interviews of DCLU staff, we concluded that none of the public spaces or amenities associated with these projects have been permanently removed from public use, except in accordance with the Land Use Code.

Monitoring PBFs

There is no dedicated staff authorized to monitor any land use conditions, except for shorelines. (Land use conditions are regulations or agreements that land owners are expected to follow.) PBF and other land use condition enforcement is generated almost entirely by citizen complaints.

Detection of PBF violations has not been a high priority in DCLU because PBF violations or encroachments are not likely to have disastrous consequences. PBFs have traditionally been monitored informally by DCLU staff who worked on the particular PBF projects.

PBF Tour

In March 2000 an auditor accompanied a veteran DCLU Land Use staff member on a tour of 11 of the 20 bonused buildings then existing downtown. The staff member pointed out examples of good and bad design, DCLU-approved changes to Title 24 PBFs, and possible PBF violations. We concluded that there were no substantial PBF violations, and that no public spaces were being used exclusively for private purposes.

There is no definitive list or map of downtown PBFs. Furthermore, some PBFs are not easily verified. For example, to earn a PBF bonus, 75 percent of the square footage adjacent to a retail shopping plaza or atrium must be dedicated to retail sales. The DCLU staff

member pointed out two locations in one building that probably should have been occupied by retail uses, but we did not try to measure the percentages of retail usage.

We observed one case in which a sign had been erected in a Title 24 arcade. Using DCLU’s public file library, we concluded that a permit application for the sign was approved without any recognition that it was being placed in a PBF arcade. Although not a serious problem, this case represents a breakdown or absence of controls over PBFs. (See additional discussion at page nine.)

Good design encourages public use, which in turn protects PBFs from “privatization”.

Before 1981, the City would approve a developer’s proposed PBF as long as the bonus calculations were correct and the City’s technical requirements (regarding seating, ramps, etc.) were met. Today, downtown building designs are subjected to qualitative review in DCLU’s Design Review process. This process should serve as an excellent control to protect PBFs.

Qualitative analysis

According to DCLU staff, prior to 1981, the City did not perform a qualitative evaluation of proposed PBFs. A Zoning Plans Examiner would review the developer’s plans to ensure that the proposed PBFs met the minimum requirements of the Land Use Code. If the minimum requirements were satisfied, the PBF would be approved.

In the absence of qualitative design review, several public spaces of questionable design were bonused under Title 24. The plaza on the south and east sides of the Madison Hotel, 909 Sixth Avenue, is an example. The plaza on the south side of the Crowne Plaza Hotel, 1113 Sixth Avenue, is another. These spaces are not easily identifiable or useful as public spaces, so they are seldom used by the public.

When public spaces attract little public use, the managers of buildings with which such spaces are associated may be inclined to try to find ways to make better use of them. The managers may not realize that the spaces are required to be open to the public.

DCLU staff described one such incident that occurred several years ago: The Crowne Plaza Hotel erected a semi-permanent tent over its PBF public plaza and began using the space to host private events. When a DCLU Land Use employee visited the plaza during such an event, hotel staff asked him to leave. DCLU reminded the hotel of its PBF obligation regarding the plaza, whereupon the hotel removed the tent and stopped trying to enforce exclusive use of the plaza. The hotel is now allowed to erect the tent during the summer months, but may not exclude anyone.

Today, proposed PBFs are subject to qualitative review as a “Type I” Land Use decision. Guidelines for evaluating downtown bonus and TDR projects are established in Director’s Rule 20-93, a 108-page document that also establishes administrative procedures and submittal requirements for such projects. Downtown projects are also subject to qualitative review by a 5-member citizen panel, the Design Review Board.

Design Review and DR 20-93 help to ensure that open-space-type PBFs will be easily identifiable and usable as public space. In this way, they serve as proactive controls against the “privatization” of those PBFs.

Recommendation:

The City should continue to evaluate PBF design in the Land Use and Design Review processes.

DCLU regulations require developers to identify each bonused public space with “the City’s public open space logo” and the hours it is open; however, the City does not have such a logo.

According to the DCLU Director’s Rule known as the “PBF Rule”:

Each bonused public space shall be clearly marked with the City’s public open space logo and shall state in large letters that the space is open to the public and the hours that it is open.¹⁰

We learned that the City does not have a “public open space logo”. Apparently the City planned to develop one when this provision was enacted. DCLU staff told us that this provision of the rule may have been intended to imitate a New York City practice of identifying its public spaces with a unique logo. They also told us that there was some discussion a few years ago about conducting a logo design competition, but the plans withered because funding was not available.

This rule had not yet been enacted when the buildings with Title 24 PBFs were constructed. The Washington Mutual Tower is the only building we are aware of that was built with bonused public spaces after the provision was enacted. Accordingly, of the 11 buildings with PBFs we visited, it was the only one that had signs identifying any of its bonused public spaces. (Without the logo, of course.)

At both of the 2nd floor exterior entrances to the public atrium in the Washington Mutual Tower—the only public atrium in the city—there are mounted highly visible plaques that declare, “THIS ATRIUM IS A PUBLIC SPACE AND SHALL REMAIN OPEN DURING NORMAL HOURS OF BUSINESS”. There were no such signs at any of the Tower’s exterior public spaces, however.

DCLU staff described several actual cases in which the required signage might have prevented an encroachment upon a

¹⁰ DCLU Director’s Rule 20-93 § II.H.

downtown PBF open space. One was the case of the tent in the Crowne Plaza Hotel plaza, described previously. In another case, a restaurant adjacent to a public seating area of the Washington Mutual Tower roped off a substantial part of the outdoor seating for the exclusive use of its customers. (A restaurant can only reserve 10 percent of the area of a public plaza for its customers.¹¹) In this case, the restaurant denied access to the adjacent PBF escalator as well. DCLU made the restaurant remove its barriers.

If the restaurant had not cut off access to the escalator, its reservation of the public plaza seating might have gone unnoticed by the public and DCLU. But if the signs required by the PBF Rule had been present, citizens would have been aware of their rights to the space, and would probably have informed DCLU. Moreover, the restaurant would probably not have made the mistake of reserving the public space in the first place.

By informing citizens of their right to use public spaces, these signs would serve as an excellent control to prevent intentional or unintentional “privatization” of privately-owned public spaces downtown.

Recommendation:

DCLU should coordinate the development of a unique public open space logo, and the City should ask building owners to post it at PBF open spaces that were built before the sign rule was enacted.

DCLU does not have the means to ensure that it does not approve permits for changes that could compromise existing PBFs.

Most major changes to downtown structures require a DCLU permit of some kind. Therefore, DCLU’s permit application process provides an opportunity for some PBF protection. *That opportunity should be more fully exploited.*

¹¹ DCLU Director’s Rule 20-93 § III.V.8.a.

When a permit is requested, there is no easy way for DCLU Permits Intake Center staff to determine whether the property is subject to PBFs. DCLU’s computer records system does not include a database of PBFs and cannot be queried to generate a list of them. As a result, the Plans Examiners in DCLU’s Permits Intake Center cannot be assured of intercepting a permit that would modify or eliminate a PBF.

DCLU’s permit database system

When reviewing a permit application, Intake Center staff may check DCLU’s computer database of historical permit information. The database system includes a land use conditions screen/table for each address that may include PBF information; however, the system is often not capable of recording and displaying all of the conditions that apply to a typical downtown office building. Permits Intake staff told us that the conditions screen often just says “numerous”. In that case, the Plans Examiner would have to check MUP records in DCLU’s microfiche library to find out what the conditions were.

DCLU is developing a replacement for its current permit database system. The Hanson Database Project is expected to improve DCLU’s capability to record and retrieve land use condition information.

PBF description is recorded

After DCLU approves a developer’s proposed PBFs, and before it issues a Master Use Permit (MUP), the developer and DCLU sign a written description of conditions related to the PBFs. DCLU records this document, along with the property deed, with the King County Department of Records and Elections.¹² This helps ensure that any subsequent buyer will be aware of the PBFs.

Having the PBF agreement recorded with the deed does not provide an effective control for DCLU’s Permit Intake staff; Plans Examiners usually do not check the deed and related

¹² DCLU Director’s Rule 20-93 § II.I.1.

records on file with King County because it is not usually necessary.

The PBF agreement should also be in microfiche records associated with the MUP, but Permits Intake staff do not routinely research the original MUP information for a building. DCLU personnel have discussed the possibility of scanning the PBF agreements into image files that can be associated with the subject property in DCLU computer systems.

Potential permit problems

DCLU staff described a situation in which it would be especially difficult for the Permits Intake staff to determine whether a PBF would be compromised by approving a permit: A change of tenant in a bonused retail shopping atrium or plaza could cause the feature to fall short of its 75-percent-retail requirement if the tenant change also involved a change in type of use (retail/office/human services/etc.). (A change of use requires a DCLU permit.) This type of violation would be difficult to catch with the city's current computer system. A Plans Examiner would have to determine the current uses of all the other tenant spaces in the shopping atrium or plaza in order to calculate its retail percentage. An ideal system would allow staff to enter tenant type data for each space and automatically calculate the retail percentage for the entire bonused shopping feature.

Some types of permit applications are not processed through the Permits Intake Center. For example, applications to install electrical signs are reviewed by DCLU staff who only approve and inspect signs, rather than through the normal Permit Intake process.

At page seven we mentioned that a sign had been erected in one Title 24 arcade. The sign, which advertises Pacific Northwest Bank's cash machine at 1111 Third Avenue, was permitted by DCLU in 1988 and given final approval in 1990. There is nothing on the permit application or associated documents to indicate that either the applicant or DCLU

realized the sign was being erected within a PBF arcade.

The City no longer grants FAR bonuses for arcades like the one in which the sign was erected; DCLU might have approved the sign even if it had known of the bonused arcade. However, it is an example of a case in which a better PBF tracking system might have prevented an action that compromised a PBF.

Mapping PBFs

A DCLU staff member suggested that it might be feasible to create a map of PBFs for the City's Geographic Information System (GIS). DCLU's Permits Intake staff all have and use ArcView software (a GIS viewing application) on their computers. Creating a GIS layer would require resources to complete maps of all the existing PBFs and enter the information into GIS.

At least some of the PBF agreements between developers and the City include diagrams of the corresponding PBFs. Maps of Title 24 PBFs that have been modified would have to be updated.

A few years ago a DCLU intern was assigned to assemble information and create maps of downtown PBFs, including FAR data, TDR facts, and site and floor plan drawings. The intern completed maps for the Washington Mutual Tower and three of the Title 24 buildings before leaving, as well as the map that appears at page 13 below. Although some DCLU staff have advocated that this work be continued, staff and/or funding have not been allocated for this purpose.

Recommendation:

DCLU should consider ways to improve its tracking of PBFs, including the possibility of creating a GIS map of PBFs.

APPENDIX A

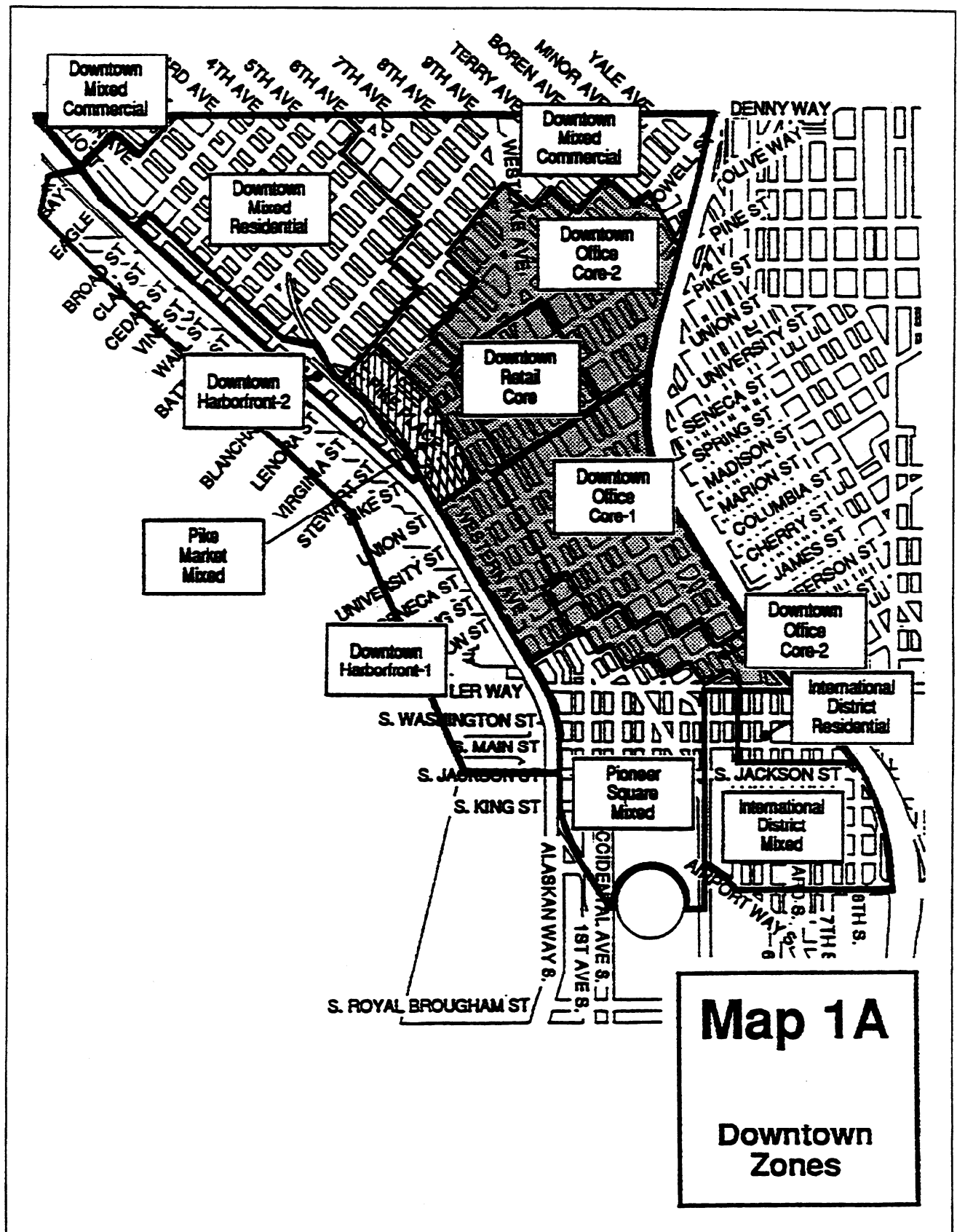
Maps

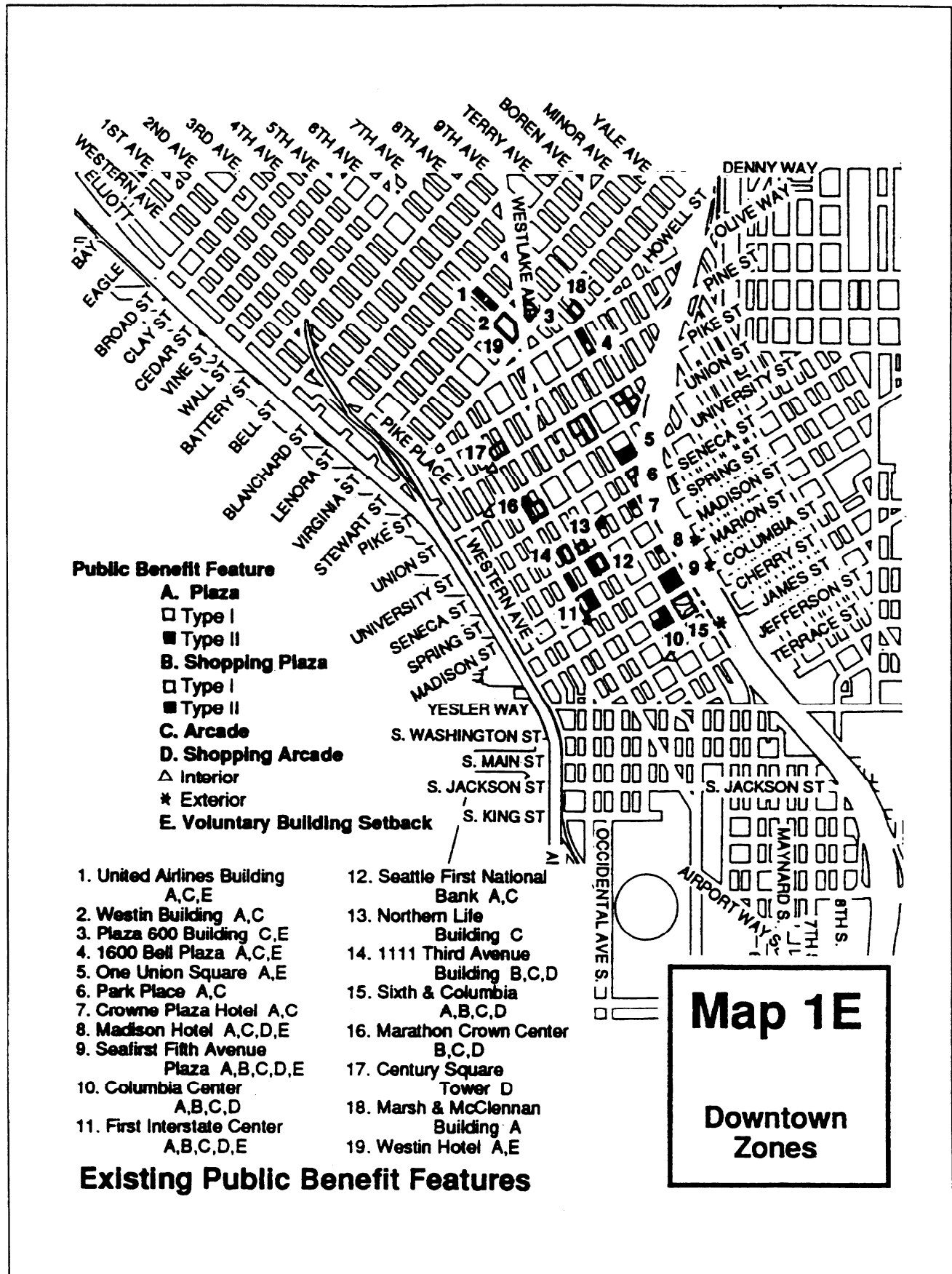
Maps of:

- **Downtown zones (page 12)**
- **Buildings granted bonuses under Title 24 (page 13)**

Notes regarding Map 1E, page 13:

- When Title 24 was repealed, DCLU classified existing Title 24 PBFs as Type I or Type II. Type I PBFs are those that meet current PBF design standards and objectives; Type II PBFs are those that would probably not earn a floor area bonus today. DCLU is more likely to approve modifications to Type II PBFs, as authorized by SMC 23.49.034.
- The Marathon Crown Center (building #16) has been replaced by Benaroya Hall.





APPENDIX B

List and definitions of some uses and architectural features available as PBFs

"Public benefit feature" means amenities, uses, and other features of benefit to the public in Downtown zones, which are provided by a developer and which can qualify for an increase in floor area. Examples include public open space, pedestrian improvements, housing, and provision of human services.

(SMC § 23.84.030)

Features in **boldface** are defined below.

Shopping atrium

Shopping corridor

Retail shopping

Parcel park

Rooftop garden

Hillclimb assist

Hillside terrace

Sidewalk widening (if required)

Overhead weather protection (if required)

Sculptured building top

Small lot development

Short-term parking

Urban plaza

Public atrium

Transit station access

Off-site open space

Payment-in-lieu-of open space

Human service use

Child care

Cinema

Performing arts theater

Museum

"Hillclimb assist" means a public benefit feature consisting of a pedestrian corridor that incorporates a mechanical device or combination of mechanical and nonmechanical features to connect avenues across lots with slopes of ten (10) percent or more to aid pedestrian movement up and down the slopes.

(SMC § 23.84.016)

"Hillside terrace" means a public benefit feature consisting of an extension of the public sidewalk on lots with slopes of ten (10) percent or more, which through design features provides public street space, helps integrate street level uses along the sidewalk, and makes pedestrian movement up and down steep slopes easier and more pleasant.

(SMC § 23.84.016)

"Human service use" means public or nonprofit agencies organized and operated exclusively for charitable purposes, which provide at least one (1) of the following services: emergency food, medical or shelter services; health care, mental health care, alcohol or drug abuse services; information and referral services for housing, employment or education; or day care services for adults. Human service uses shall provide at least one (1) of the listed services directly to a client group on the premises, rather than serve only administrative functions.

(SMC § 23.84.016)

"Overhead weather protection" means a nonstructural feature, such as a canopy, awning or marquee, or a structural feature, such as a building overhang or arcade, which extends from a building and provides pedestrians with protection from inclement weather and adds visual interest at street level.

(SMC § 23.84.028)

"Parcel park" means a public benefit feature consisting of a small open space which is accessible to the public and which provides downtown pedestrians an opportunity to rest and relax in a developed urban environment through such amenities as seating, landscaping and artwork.

(SMC § 23.84.030)

"Plaza, urban" means a public benefit feature consisting of a public open space in the most intensely developed areas of downtown which is located to create a focus for surrounding development, increase light and air at street level, and ensure adequate space at transit stations and major transfer points to increase the convenience and comfort of transit riders.
(SMC § 23.84.030)

"Public atrium" means a public benefit feature consisting of an indoor public open space which provides opportunities for passive recreational activities and events, and for public gatherings, in an area protected from the weather, and including such amenities as seating, landscaping and artwork.
(SMC § 23.84.030)

"Retail shopping" means a public benefit feature consisting of uses provided at street level which contribute to pedestrian activity and interest.
(SMC § 23.84.033)

"Rooftop garden, interior-accessible" means a public benefit feature consisting of an open space located on the roof of a structure which is accessible to the public from the lobby of the building and which is located no more than two hundred forty (240) feet above grade, and which provides such amenities as landscaping, seating and artwork.
(SMC § 23.84.033)

"Rooftop garden, street-accessible" means a public benefit feature consisting of an open space located on the roof of a structure which is accessible to the public from the street or a plaza and is no more than ten (10) feet above the elevation where public access is provided, and provides such amenities as landscaping, seating and artwork.
(SMC § 23.84.033)

"Sculptured building top" means a public benefit feature consisting of the treatment of the upper portion of a building as an architectural feature which adds interest to the building by stepping back in a series of steps or by some other arrangement which gives a sculptural definition or aesthetic value to the top of a structure.
(SMC § 23.84.036)

"Shopping atrium" means a public benefit feature consisting of a large enclosed space which is accessible to the public, and which provides a combination of retail stores and passive recreational space in a weather-protected, convenient, and attractive atmosphere for shoppers that also contributes to the activity and visual interest at street level.
(SMC § 23.84.036)

"Shopping corridor" means a public benefit feature consisting of a passage which goes through a block and connects two (2) avenues, and which is lined with retail uses, in order to make pedestrian circulation more convenient, provide more frontage for shops, give protection to pedestrians from inclement weather, and shorten walking distances.
(SMC § 23.84.036)

"Sidewalk widening" means a public benefit feature consisting of an extension of the surface of a sidewalk, generally onto private property, which is free of all permanent obstructions.
(SMC § 23.84.036)

APPENDIX C

Definitions of some architectural features available as PBFs under the repealed Title 24 (Zoning Code)

Although the Zoning Code was repealed (and replaced by sections of the current Land Use Code), 18 existing downtown buildings earned additional FAR by including PBFs that were eligible under the Zoning Code. These features are still public amenities, although some can be modified with DCLU approval. The following PBF definitions are from the Zoning Code.

"Arcade" means a continuous covered area, open to the public at all times, having direct access from all the streets or plazas which it adjoins or connects, and unobstructed to a height of not less than twelve feet (12') except for supporting columns and beams and either:

a. Is adjacent to a street or plaza and not less than ten feet (10') in depth and five hundred (500) square feet in area and extending along the street or adjoining plaza for at least fifty feet (50') or for the full street frontage; or

b. Extends from a street or plaza through to another street or plaza and is not less than fifteen feet (15') in width and five hundred (500) square feet in area.
(former SMC § 24.08.020.8.)

"Arcade, shopping" means a continuous covered area, open to the public at all times, having direct access from all the streets or plazas which it adjoins or connects, unobstructed to a height of not less than twelve feet (12') except for supporting columns having direct access from all the streets or plazas which it adjoins or connects, unobstructed to a height of not less than twelve feet (12') except for supporting beams, having at least thirty-five percent (35%) of its perimeter when adjacent to a street or plaza, or fifty percent (50%) of its perimeter when it extends from a street or plaza to another street or plaza, devoted to consumer shopping uses such as but not limited to

flower and gift shops, indoor-outdoor cafes, art galleries, and similar specialty shops readily accessible to the public from it and either:

a. Is adjacent to a street or plaza and not less than ten feet (10') or more than twenty feet (20') in depth and five hundred (500) square feet in area and extending along an adjoining plaza for at least 50 feet (50') or along a street for the full street frontage; or

b. Extends from a street or plaza through to another street or plaza and is not less than fifteen feet (15') in width and five hundred (500) square feet in area.

To help ensure that required consumer shopping uses are retained and the public interest served, in the event such spaces cease to function for their intended purpose, the actual area so affected or an equivalent area shall be converted into readily accessible public space either as additional plazas, arcades or public display areas within one hundred twenty (120) days. Certain consumer services, excluding financial institutions, that are of visual interest from the exterior and oriented to passing pedestrians may be permitted on an interim or permanent basis when approved by the Director.
(former SMC § 24.08.020.9.)

"Plaza" means a continuous uncovered area which is accessible to the public at all times and which, if a floor area bonus is claimed in connection with the provisions of this subtitle is either:

a. At least ten feet (10') in depth extending along a street lot line, with a minimum area of five hundred (500) square feet and a minimum length of fifty feet (50') or the full width of the lot, whichever is less; or

b. At least thirty feet (30') in width, extending from street to street; or

c. On a corner lot, an open area with a minimum area of five hundred (500) square feet, and a minimum dimension of ten feet

(10'), which is bounded on two (2) sides by the intersecting street lines; or

d. At least five thousand (5,000) square feet in area with a minimum dimension of sixty feet (60'), and is connected to a street by means of another plaza, an arcade, or a public way at least thirty feet (30') wide. Such a plaza shall not at any point be more than ten feet (10') above or below the elevation of a connecting street at point of access thereto. *(former SMC § 24.08.170.4.)*

"Plaza, landscaped" means a plaza having thirty percent (30%) or more of its area landscaped. *(former SMC § 24.08.170.5.)*

"Plaza, shopping" means a continuous open and uncovered area (except for such consumer shopping uses as those permitted in subsection b below having a total area not to exceed fifteen percent (15%) of the whole plaza and a height of not more than one (1) story which is accessible to the public at all times and which, if a floor area bonus is claimed in connection with the provisions of this subtitle is:

a. At least two thousand (2,000) square feet in area with a minimum dimension of forty feet (40'); and

b. Has contiguous, readily accessible and visible consumer shopping uses such as but not limited to: flower shops, apparel shops, magazine and smoke shops, card shops, gift shops, outdoor-indoor cafes, art galleries, and similar specialty shops readily accessible to the public from it along at least forty-five percent (45%) of its perimeter. Partial perimeter credit towards this amount will be given both permitted consumer shopping uses not contained within the principal building as well as those contained within an abutting shopping arcade fronting on such a plaza at a rate of one-half (1/2) of the actual consumer shopping frontage provided. To help ensure that such visual interest uses are retained and the public interest served, in the event such spaces cease to function for their intended purpose, the actual area so affected or an equivalent area shall be converted into readily accessible public open space either as additional plaza, arcade or public display area

accessible from such plazas within one hundred twenty (120) days. Certain consumer services, excluding financial institutions, that are of visual interest from the exterior and oriented to passing pedestrians may be permitted on an interim or permanent basis when approved by the Director. *(former SMC § 24.08.170.6.)*

APPENDIX D

Department of Design, Construction and Land Use (DCLU) Response

[See facing page]



City of Seattle


Paul Schell, Mayor

Department of Design, Construction and Land Use
R. F. Krochalis, Director

MEMORANDUM

DATE: October 25, 2000

TO: Susan Cohen, City Auditor

FROM: Rick Krochalis, Director 

SUBJECT: Public Benefit Features Report

Thank you for the opportunity to review the Public Benefit Features report. We also appreciate the opportunity to assist you in gaining a thorough understanding of how DCLU administers the public benefit features provisions of the Land Use Code and the Public Benefits Features Rule. We were happy to share our records, discuss our practices and visit public benefit feature sites with you.

The findings in the report are an accurate reflection of the PBF program and its results. In general we support your recommendations. We support the idea of creating a unique public open space logo to be posted at PBF open spaces at sites established before such signs were required. However, there has been no analysis of the cost of producing and installing the signs, once created. Supplementary funding and perhaps new legal authority may need to be established. We also hope to improve the automated tracking of PBFs including the creation of maps, showing PBF locations. DCLU is rebuilding its permit tracking system, with the new system on-line next year. This will enable quick access to a GIS layer of PBFs so that plan reviewers will easily know about the existence of PBFs when considering applications for tenant improvements and changes of use.

We look forward to providing any further assistance or additional information, should the need arise.



City of Seattle, Department of Design, Construction and Land Use
710 Second Avenue, Suite 200, Seattle, WA 98104-1703

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.

